



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 291-00
10 February 2000

CWO3 [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Chief Warrant Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of the contested reviewing officer comments from your fitness report for 1 November 1996 to 28 March 1997.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 10 January 2000, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 3 January 2000, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion from MMOA-4 in finding that your failure by the Fiscal Year 2000 Chief Warrant Officer-4 Selection Board should stand. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

291-00

IN REPLY REFER TO:
1610
MMER
10 Jan 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]
[REDACTED], [REDACTED] USMC

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 23 Dec 99
(2) CMC Advisory Opinion 1600 MMOA-4 of 3 Jan 00
(3) Copy of CMC ltr 1610 MMER of 10 Jan 00

1. As evidenced by enclosure (1), PERB removed from CWO-3 [REDACTED]'s official military record, the Reviewing Officer's comments appended to his fitness report for the period 961101 to 970328 (TR).

2. We defer to BCNR on the issue of [REDACTED]'s request for the removal of his failure of selection to the grade of CWO-4. Enclosure (2) is furnished to assist in resolving that matter.

3. By enclosure (3), this Headquarters provided [REDACTED] with a copy of the Advisory Opinion contained at enclosure (2).

[REDACTED] sex
[REDACTED]
Head, Performance Evaluation
Review Branch
Personnel Management Division
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

291-00

IN REPLY REFER TO:
1610
MMER/PERB
23 DEC 1999

From: Commandant of the Marine Corps
To: CWO-3 [REDACTED] USMC
[REDACTED] 7,
[REDACTED] 107

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the Reviewing Officer's comments only for the following fitness report:

| <u>Date of Report</u> | <u>Reporting Senior</u> | <u>Reporting Period</u> |
|-----------------------|-------------------------|-------------------------|
| 28 Mar 97 | [REDACTED] | 961101 to 970328 (TR) |

2. There will be inserted in your Naval record a memorandum in place of the removed comments. The memorandum will state that the comments have been removed by order of the Commandant of the Marine Corps, and may not be made available to selection boards and other reviewing authorities; that such boards may not conjecture or draw inference as to the nature of the comments. In addition, the Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be modified by eliminating any indication of Reviewing Officer nonconcurrence.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failure(s) of selection from a Naval record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

[REDACTED]
By direction



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

291-00

IN REPLY REFER TO:

1600
MMA-4
3 Jan 00

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Subj: BCNR PETITION FOR CHIEF WARRANT OFFICER [REDACTED]
[REDACTED] USMC

Ref: (a) MMR Request for Advisory Opinion in the case of
Chief Warrant Officer 3 [REDACTED]
[REDACTED] USMC of 23 Dec 99

1. Recommend disapproval of Chief Warrant Officer 3 [REDACTED] request for removal of his failure of selection.
2. Per the reference, we reviewed Chief Warrant Officer 3 Tomilson's record and petition. He failed selection on the FY00 USMC Chief Warrant Officer 4 Selection Board. Subsequently, he successfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Reviewing Officer comments from the Transfer fitness report of 961101 to 970328. Chief Warrant Officer [REDACTED] requests removal of his failure of selection.
3. In our opinion, the petitioned report does present competitive concern to the record. However, Chief Warrant Officer [REDACTED] has other areas of competitive concern in his record that more than likely led to his failure of selection.

a. **Section B Marks.** The record reflects less competitive Section B marks in Regular Duties, Additional Duties, Administrative Duties, Handling Enlisted Personnel, Training Personnel, Personal Appearance, and Leadership.

b. **Grade Change Fitness Report of 960601 to 961031.** Chief Warrant Officer [REDACTED] receives less than outstanding marks in Regular Duties, Personal Appearance, and Leadership. The Reporting Senior states, "Due to misaligned priorities and poor planning, failed to qualify with T/O weapon last FY."

c. **Transfer Fitness Report of 961101 to 970328.** Chief Warrant Officer [REDACTED] receives a less than outstanding mark in Personal Appearance. The Reporting Senior states, "Making NOTICEABLE improvement in block 14b: expect an "OS" in next reporting period."

Subj: BCNR PETITION FOR CHIEF WARRANT OFFICER [REDACTED]
[REDACTED] 125 USMC

4. In summary, we believe Chief Warrant Officer [REDACTED] petition is without merit. His record received a substantially complete and fair evaluation by the Board. Though the petitioned report did present competitive concern to the record, his record has other areas of competitive concern beyond the petitioned report that more than likely led to his failure of selection. Therefore, we recommend disapproval of Chief Warrant Officer 3 Tomilson's request for removal of his failure of selection.

5. Point of contact is [REDACTED] (70 [REDACTED])

[REDACTED]

Lieutenant Colonel, U.S. Marine Corps
Head, Officer Career Counseling and
Evaluation Section
Officer Assignment Branch
Personnel Management Division